

FILED
U.S. DISTRICT COURT
MAY 17 2012
12 MAY 17 AM 10:19
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

**FERMIN CORTEZ, et al., on behalf of
themselves and all other similarly
situated individuals,**

Plaintiffs,

v.

**NEBRASKA BEEF, INC., and
NEBRASKA BEEF, LTD.,**

Defendants.

**DAVID CHUOL, on behalf of himself
and all other similarly situated
individuals,**

Plaintiff,

v.

NEBRASKA BEEF, LTD.,

Defendant.

8:08CV90

OFFICE OF THE CLERK

8:08CV99

and 8:10CV308

**ORDER GRANTING FINAL APPROVAL
OF CLASS AND COLLECTIVE ACTION SETTLEMENT**

The Parties in this action have submitted a Joint Motion for Final Approval of Class and Collective Action Settlement. Upon consideration of the motion, as well as the declaration submitted by Rust Consulting, Inc., ("Rust") in support of the motion; the parties' prior briefing regarding the settlement; the notices to class members; all other settlement documents and the pleadings in the case as a whole; and any argument at the Final Fairness Hearing, and having concluded that the settlement and accompanying notices appear to be fair, reasonable, and in the best interest of the class, the Court hereby enters the following order:

IT IS HEREBY ORDERED THAT:

1. The Court grants final approval of the parties' Settlement Agreement and Release ("Settlement Agreement") attached as Exhibit A to the Declaration of Shanon J. Carson Authenticating Exhibits filed with the parties' May 14, 2012 Joint Motion for Final Approval of Class and Collective Action Settlement. The Court finds that the manner and form of notice as set forth in the Settlement Agreement was provided to class members as ordered by the Court. The Court finds that the manner and form of notice as set forth in the Settlement Agreement and approved and ordered by the Court is reasonably calculated to give actual notice to class members of the fact of settlement and the right to receive settlement benefits, to be excluded from the settlement, and raise objections to the Settlement Agreement.

2. The Court further finds that the Settlement Agreement was reached following meaningful discovery and investigation conducted by Class Counsel; the Settlement Agreement is a result of adversarial, arms'-length negotiation between the parties; and the terms of settlement in all respects are fair, adequate, and reasonable. In so finding, the Court considered evidence presented regarding the merits of the Plaintiffs' case, the risk, expense and complexity of the claims presented, the likely duration of further litigation, the amount offered in settlement, the extent of investigation and discovery completed, and the experience and views of Class Counsel. The Court further considered the total absence of objections and one request for exclusion to the proposed settlement by Class Members.

3. The request for final certification of the following Nebraska State Claims Class and the FLSA Collective Class is GRANTED pursuant to Fed. R. Civ. P. 23 and 29 U.S.C. § 216(b):

All current and former non-exempt, hourly production and support employees who have been employed at any time by Nebraska Beef, Ltd. and/or Nebraska

Beef, Inc. at the Omaha, Nebraska processing facility during the time period from March 4, 2004 to the date the settlement is preliminary approved, and who used personal protective equipment.

4. The Court finds that the proposed classes are sufficiently numerous such that resolution of the Plaintiffs' claims on a class basis promotes efficient judicial administration and is therefore warranted. The Court appoints Berger & Montague, P.C., Schneider Wallace Cottrell Brayton Konecky LLP, The Downey Law Firm, LLC and Welsh & Welsh, PC LLO as Class Counsel for the Settlement Class.

5. The Court grants Plaintiffs' request for attorneys' fees to Class Counsel in the amount of \$1,299,999.80. The Court finds that the requested fees are fair, adequate and reasonable based on the evidence presented by Class Counsel of the efforts they made to bring this case to a favorable resolution on behalf of the Class.

6. The Court grants Plaintiffs' request for reimbursement of costs and expenses in the amount of \$580,000.92. The Court finds that the costs incurred by Class Counsel are reasonable and necessary based on evidence presented of expenses incurred and settlement results achieved.

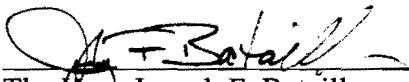
7. The Court grants Plaintiffs' request for service awards of \$5,000.00 each to each of the named Plaintiffs who gave depositions and individual service awards of \$2,500 to each Class member who gave a deposition in this case. The Court finds that these service awards are fair and reasonable based on the assistance that the Named Plaintiffs and Class members provided to Class Counsel on behalf of the Class.

8. The Court also finds that the designated *cy pres* recipient, The Employee Rights Advocacy Institute For Law & Policy, is reasonable and appropriate.

9. The Claims Administrator, Rust Consulting, Inc., is hereby ordered to disburse the Gross Settlement Amount as set forth in the Settlement Agreement.

10. The parties are directed to comply with the terms of the Settlement Agreement. The Court shall retain jurisdiction and oversight of these settlement proceedings, and shall enter a dismissal of the action on request of the parties at the conclusion of the administration of the Settlement Agreement.

Entered this 17th day of May, 2012.



The Hon. Joseph F. Bataillon
United States District Judge